

12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Presidential Determination 2007-7 of December 7, 2006, 72 FR 1899 (January 16, 2007); Notice of May 7, 2014, 79 FR 26589 (May 9, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

SOURCE: 61 FR 12806, Mar. 25, 1996, unless otherwise noted.

#### § 746.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part implements broad based controls for items and activities subject to the EAR imposed to implement U.S. government policies. Two categories of controls are included in this part.

(a) *Comprehensive controls.* This part contains or refers to all the BIS licensing requirements, licensing policies, and License Exceptions for countries subject to general embargoes or comprehensive sanctions, currently Cuba, Iran, and Syria. This part is the focal point for all the EAR requirements for transactions involving these countries.

(1) *Cuba.* All the items on the Commerce Control List (CCL) require a license to Cuba. In addition, most other items subject to the EAR, but not included on the CCL, designated by the Number “EAR99”, require a license to Cuba. Most items requiring a license to these destinations are subject to a general policy of denial. Because these controls extend to virtually all exports, they do not appear in the Country Chart in part 738 of the EAR, nor are they reflected in the Commerce Control List in part 774 of the EAR.

(2) *Iran.* BIS maintains license requirements and other restrictions on exports and reexports to Iran. A comprehensive embargo on transactions involving this country is administered by the Department of The Treasury’s Office of Foreign Assets Control (OFAC).

(3) *Syria.* Pursuant to Sections 5(a)(1) and 5(a)(2)(A) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Pub. L. 108-175, codified as a note to 22 U.S.C. 2151) (the SAA), since May 14, 2004 BIS has maintained a prohibition on the export to Syria of all items on the Commerce

Control List (in 15 CFR part 774) (CCL) and a prohibition on the export to Syria of products of the United States, other than food and medicine. The President also exercised national security waiver authority pursuant to Section 5(b) of the SAA for certain transactions. Section 746.9 of this part sets forth the specific license requirements, licensing policy and license exceptions applicable to Syria as a sanctioned country under the EAR. These provisions were issued consistent with Executive Order 13338 of May 11, 2004 which implemented the SAA.

(b) *Sanctions on selected categories of items to specific destinations.* (1) BIS controls the export and reexport of selected categories of items to countries under United Nations Security Council arms embargoes. See the Commerce Control List in Supplement No. 1 to Part 774. See also §§ 746.3 (Iraq) and 746.4 (North Korea).

(2) The countries subject to United Nations Security Council arms embargoes are: Central African Republic, Cote d’Ivoire (Ivory Coast), Democratic Republic of the Congo, Eritrea, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Somalia, and Sudan.

(3) A license is required to export or reexport items identified in Part 774 as having a “UN” reason for control to countries identified in paragraph (b)(2) of this section. To the extent consistent with United States national security and foreign policy interests, BIS will not approve applications for such licenses if the authorization would be contrary to the relevant United Nations Security Council Resolution.

(4) You may not use any License Exception GOV, for items for personal or official use by personnel and agencies of the U.S. Government or agencies of cooperating governments as set forth in § 740.11(b) of the EAR, to export or reexport items with a UN reason for control to countries listed in paragraph (b)(2) of this section. This paragraph does not apply to Iraq, which is governed by § 746.3(c) of this part; North Korea, which is governed by § 746.4(c) of this part; or Iran, which is governed by § 746.7(c) of this part.

(c) *Russian Industry Sector Sanctions.* The Russian Industry Sector Sanctions

## § 746.2

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are set forth under § 746.5 and referenced under the License Requirements section of certain Export Control Classification Numbers (ECCNs) in supplement No. 1 to part 774 (Commerce Control List), as well as in a footnote to the Commerce Country Chart in Supplement No. 1 to part 738.

(d) This part also contains descriptions of controls maintained by the Office of Foreign Assets Control in the Treasury Department and by the Directorate of Defense Trade Controls in the Department of State. Comprehensive embargoes and supplemental controls implemented by BIS under the EAR usually also involve controls on items and activities maintained by these agencies. This part sets forth the allocation of licensing responsibilities between BIS and these other agencies. References to the requirements of other agencies are informational; for current, complete, and authoritative requirements, you should consult the appropriate agency's regulations.

[61 FR 12806, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1996; 65 FR 38160, June 19, 2000; 67 FR 70546, Nov. 25, 2002; 69 FR 3005, Jan. 22, 2004; 69 FR 23638, Apr. 29, 2004; 69 FR 46076, July 30, 2004; 72 FR 3725, Jan. 26, 2007; 73 FR 36, Jan. 2, 2008; 76 FR 77117, Dec. 12, 2011; 77 FR 42975, July 23, 2012; 78 FR 22723, Apr. 16, 2013; 79 FR 32625, June 5, 2014; 79 FR 45679, Aug. 6, 2014]

### § 746.2 Cuba.

(a) *License requirements.* As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading with the Enemy Act of 1917, as amended, you will need a license to export or reexport all items subject to the EAR (see part 734 of the EAR for the scope of items subject to the EAR) to Cuba, except as follows.

(1) *License exceptions.* You may export or reexport without a license if your transaction meets all the applicable terms and conditions of any of the following License Exceptions. To determine the scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary exports and reexports (TMP) by the news media (see § 740.9(a)(9) of the EAR).

(ii) Operation technology and software (TSU) for legally exported commodities or software (see § 740.13(a) of the EAR).

(iii) Sales technology (TSU) (see § 740.13(b) of the EAR).

(iv) Software updates (TSU) for legally exported software (see § 740.13(c) of the EAR).

(v) Parts (RPL) for one-for-one replacement in certain legally exported commodities (see § 740.10(a) of the EAR).

(vi) Baggage (BAG) (see § 740.14 of the EAR).

(vii) Governments and international organizations (GOV) (see § 740.11 of the EAR).

(viii) Gift parcels and humanitarian donations (GFT) (see § 740.12 of the EAR).

(ix) Items in transit (TMP) from Canada through the U.S. (see § 740.9(b)(1)(iv) of the EAR).

(x) Aircraft and vessels (AVS) for certain aircraft on temporary sojourn (see § 740.15(a) of the EAR).

(xi) Permissive reexports of certain spare parts in foreign-made equipment (see § 740.16(h) of the EAR).

(xii) Exports of agricultural commodities, classified as EAR99, under License Exception Agricultural Commodities (AGR) and certain reexports of U.S. origin agricultural commodities, classified as EAR99, under License Exception AGR (see § 740.18 of the EAR).

(xiii) Commodities and software authorized under License Exception Consumer Communications Devices (CCD) (see § 740.19 of the EAR).

(2) [Reserved]

(b) *Licensing policy.* Items requiring a license are subject to a general policy of denial, except as follows:

(1) *Medicines and Medical Devices.* Applications to export medicines and medical devices as defined in part 772 of the EAR will generally be approved, except:

(i) To the extent restrictions would be permitted under section 5(m) of the Export Administration Act of 1979, as amended (EAA), or section 203(b)(2) of the International Emergency Economic Powers Act;